

1 **UNITED STATES DISTRICT COURT**
2 **SOUTHERN DISTRICT OF TEXAS**
3 **HOUSTON DIVISION**

4 UNITED STATES OF AMERICA * 11-CV-2659
5 VS. * Houston, Texas
6 * March 27, 2012
7 \$35,131.00 IN U.S. * 9:06 a.m.
8 CURRENCY

9 **BENCH TRIAL**

10 **BEFORE THE HONORABLE LYNN N. HUGHES**
11 **UNITED STATES DISTRICT JUDGE**

12 **APPEARANCES:**

13 **FOR THE GOVERNMENT:**

14 Albert T. Ratliff
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19 CASE AGENT: Min Tran

20 **FOR THE DEFENDANT:**

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31 Proceedings recorded by mechanical stenography. Transcript
32 produced by computer-assisted transcription.

1 THE COURT: Thank you. Please be seated. All
2 right. We have two exhibits from the government, is there
3 an objection to either?

4 MR. CALLAHAN: No, Your Honor.

09:06:14

5 THE COURT: Exhibit, we have five exhibits from
6 the claimants, is there an objection?

7 MR. RATLIFF: No, Your Honor.

09:06:30

8 THE COURT: They're all admitted. Would
9 everyone who expects to be called as a witness, please
10 stand and then raise your right hand, please.

11 MR. RATLIFF: Your Honor, the agent is bringing
12 all the officers.

13 THE COURT: Does she have her hand up?

09:07:06

14 MR. CALLAHAN: Yes. Do each of you solemnly
15 swear that the testimony that you give will be the truth,
16 the whole truth and nothing but the truth?

17 IN UNISON: (Answered affirmatively).

18 THE COURT: You're not going to testify, Agent?

19 CASE AGENT: No, sir.

09:07:20

20 THE COURT: What are you doing here, Agent?

21 CASE AGENT: I'm the case agent.

22 MR. RATLIFF: Your Honor, he'll be assisting me
23 throughout the trial.

24 THE COURT: Pardon?

09:07:29

25 MR. RATLIFF: He'll be assisting me throughout

1 the trial.

2 THE COURT: And is he with the agency?

3 MR. RATLIFF: Yes, Your Honor. He's a special
4 agent with the Department of Homeland Security. He's the
09:07:41 5 case agent for this case.

6 THE COURT: All right. I'm sorry. But y'all
7 have to wait in the hall. It's only slightly duller out
8 there. Any other preliminary matters?

9 MR. CALLAHAN: Nothing from us, Your Honor.

09:08:02 10 MR. RATLIFF: Nothing from the government, Your
11 Honor.

12 THE COURT: All right. Call your first
13 witness, please, sir.

14 MR. RATLIFF: The government calls Officer
09:08:08 15 Hernandez.

16 THE COURT: Sit up here, please, sir, and you
17 can't move the chair, so you have to move the microphone
18 right in front of you. It's cheap government equipment,
19 what you're used to, to make sure it's right close in in
09:08:44 20 front of you.

21 All right, Mr. Ratliff.

22

23

24

25

1 **AUGUSTIN HERNANDEZ, III,**
2 after having been first cautioned and duly sworn, testified
3 as follows:

4 **DIRECT EXAMINATION**

09:08:53 5 BY MR. RATLIFF:

6 **Q.** Officer Hernandez, please state your full name for
7 the record.

8 **A.** Agustin Hernandez, III.

9 **Q.** And where do you work, sir?

09:09:00 10 **A.** I work at George Bush Intercontinental Airport.

11 **Q.** Which agency do you work for?

12 **A.** U.S. Department of Homeland Security Customs and
13 Border Protection.

14 **Q.** And what is your position with them?

09:09:08 15 **A.** I am a CPPO officer.

16 **Q.** What are your general duties?

17 **A.** Generally I'm assigned to the outbound in the
18 currency division.

19 **Q.** Sir, I direct your attention to June 2nd of last
09:09:22 20 year. Were you on duty at that time?

21 **A.** Yes, sir.

22 **Q.** Were you conducting a screening operation for an
23 outbound flight?

24 **A.** Yes.

09:09:31 25 **Q.** Which flight was that?

1 **A.** I believe it was EK 214, the Emirates flight,
2 destined for Dubai.

3 **Q.** What are your duties as the screener of that flight?

4 **A.** I was one of the two screen officers.

09:09:42

5 **Q.** I show you --

6 MR. RATLIFF: May I approach the witness?

7 THE COURT: He answered the question, but
8 what's a screening officer do?

9 MR. RATLIFF: I'm sorry, Your Honor?

09:10:00

10 THE COURT: He said he's one of two screening
11 officers.

12 MR. RATLIFF: Yes.

13 THE COURT: I want to know what the function of
14 a screening officer is.

09:10:06

15 MR. RATLIFF: Yes, Your Honor.

16 BY MR. RATLIFF:

17 **Q.** Officer Hernandez, please explain what a screen
18 officer does.

19 **A.** The screening officer asks each passenger who's about
20 to board for departure from the United States, ask them if
21 they were transporting or carrying in excess of \$10,000 in
22 monetary instruments from the country, Your Honor.

09:10:16

23 THE COURT: Okay.

24 BY MR. RATLIFF:

09:10:29

25 **Q.** Officer Hernandez, for that flight, was there a

1 posted display listing the currency reporting
2 requirements?

3 **A.** Yes, sir.

4 MR. RATLIFF: May I approach the witness, Your
09:10:41 5 Honor?

6 THE COURT: Yes, sir.

7 BY MR. RATLIFF:

8 **Q.** Officer Hernandez, I show you what's been marked as
9 Plaintiff's Exhibit Number 1. Do you recognize this
09:10:52 10 exhibit?

11 **A.** Yes, sir.

12 **Q.** And what is it?

13 **A.** It is the notice that we have out front by the jet
14 way for passengers to view upon their departure from the
09:11:02 15 country.

16 **Q.** Thank you.

17 And in relationship to the ticket counter
18 where the passengers have to give their ticket before they
19 go down the jet way, and where you were stationed, where
09:11:22 20 was this sign displayed?

21 **A.** It is between the actual gate where the passenger
22 gets their ticket, and between where we stand.

23 **Q.** And where were you standing?

24 **A.** I was standing directly in front of the door leading
09:11:37 25 to the ramp to the flight.

1 Q. Did there come a time that Mr. and Mrs. Jones as
2 passengers approached you?

3 A. Yes.

4 Q. And will you tell the Court what happened.

09:11:52

5 A. I proceeded to ask both passengers for their
6 passports to verify their identity upon departure from the
7 U.S. I asked them if they were carrying more than \$10,000
8 in currency or monetary instruments between the both of
9 them out of the country at that particular time.

09:12:08

10 Q. And what response did they give you?

11 A. Mr. Jones responded that they were carrying \$20,200
12 out of the country between the two of them.

13 Q. Now, Mr. Hernandez, Officer Hernandez, when you were
14 speaking to them, how close were you to them?

09:12:26

15 A. Approximately two, three feet, sir.

16 Q. And what tone of voice were you speaking to them?

17 A. In a pretty low tone, but loud enough for them to
18 hear me and be able to respond.

19 Q. And when you first told them about -- you asked them
20 about the funds that they were carrying, how close was Mr.
21 and Mrs. Jones to you?

09:12:41

22 A. Approximately two to three feet, sir.

23 Q. And was your question directed at both of them?

24 A. Yes.

09:12:53

25 Q. And after Mr. Jones gave his answer, what did you do?

1 **A.** I explained that it was not against the law to carry
2 more than 10,000 but he had to report it to U.S. Customs
3 prior to his departure.

4 **Q.** And did he say anything in response to that?

09:13:12

5 **A.** No. He said that all he was carrying -- actually, he
6 said all he was carrying was \$20,200.

7 **Q.** And after he told you the second time that amount,
8 what did you do?

09:13:27

9 **A.** I wrote the amount that he reported to me on the
10 FinCen 105 Form, which is the form required by law for a
11 person to fill out upon departure, and I wrote down
12 \$20,200. I verified it with Mr. Jones. I showed him the
13 amount, and then asked him, "If this is correct, sign your
14 name right here," and he signed his name on the proper
15 place on the form.

09:13:44

16 MR. RATLIFF: May I approach the witness, Your
17 Honor?

18 THE COURT: Yes, sir.

19 BY MR. RATLIFF:

09:13:53

20 **Q.** Officer Hernandez, I show you what's been marked as
21 Plaintiff's Exhibit Number 1. Do you recognize that
22 document?

23 **A.** Yes, sir.

24 **Q.** Is that the FinCen 105 that you just testified about?

09:14:08

25 **A.** Yes, sir.

1 Q. And do you see Mr. Jones' signature on that document?

2 A. Yes, sir.

3 Q. After Mr. Jones signed that document, what happened
4 next?

09:14:17

5 A. I then instructed him that he was going to be going
6 down to a verification -- currency verification table,
7 where other officers would then verify his amount,
8 complete the form. They would instruct him as far as what
9 the form was about, and how to complete it.

09:14:37

10 Q. Now, what happened to the form?

11 A. I gave the form, along with his passports to him, and
12 he carried the form with the passports down to the
13 inspection area.

09:14:50

14 Q. And the inspection area was about 17 feet away;
15 correct?

16 A. Correct.

17 MR. RATLIFF: No further questions, Your Honor.
18 I pass the witness.

19 THE COURT: Mr. Callahan?

09:15:03

20 MR. CALLAHAN: Your Honor, may I approach to
21 give him an exhibit book?

22 THE COURT: Yes, sir.

23 MR. CALLAHAN: Just turn to the number.

24 THE WITNESS: Okay.

09:15:18

25

CROSS-EXAMINATION

BY MR. CALLAHAN:

Q. Agent Hernandez, it's perfectly legal for Mr. Jones to carry \$31,131 in currency in traveler's checks out of the country; correct?

A. Yes.

Q. Now, if you would, if you'd turn to Claimant's Exhibit 1, I believe is the form that you were just looking at for Mr. Ratliff.

Now, you wrote \$20,200 down on this form, did you not?

A. Correct, yes, sir.

Q. And the form was blank, other than your notation of \$20,200, when you told Mr. Jones to sign it; correct?

A. Correct.

Q. Now, in the jet way, you asked Mr. Jones how much U.S. currency that he and his wife had on them; correct?

A. Correct.

Q. And Mr. Jones told you initially that he didn't know; correct?

A. Correct.

Q. Now, did you ask Mr. Jones rhetorically about, "You don't know how much U.S. currency you have on you?"

A. Excuse me? Can you repeat that?

Q. Did you ask Mr. Jones a rhetorical questions that

1 said, "You don't how much U.S. currency you had on you?"

2 THE COURT: That's not a rhetorical question.

3 MR. CALLAHAN: Well, in response to Mr. Jones
4 saying that he didn't know how much currency he had.

09:16:28

5 THE WITNESS: I don't remember asking him that,
6 sir.

7 BY MR. CALLAHAN:

8 Q. You also asked Mr. Jones how many dollars he had on
9 him; correct?

09:16:34

10 A. Correct.

11 Q. And Mr. Jones told you that he guessed he had
12 \$20,200; correct?

13 A. Correct. He informed me he was carrying \$20,200.

14 Q. And then you wrote that number down on Exhibit 1;
15 correct?

09:16:46

16 A. Correct.

17 Q. Now, you never asked Mrs. Jones, Mrs. Berekti Jones,
18 you never had her sign a FinCen 105 Form, did you?

19 A. No, sir.

09:16:57

20 Q. Now, Agent Hernandez, you're not aware of any
21 evidence that the funds seized from Mr. and Mrs. Jones
22 were the result of any criminal activity, do you?

23 A. No, I don't.

24 Q. And you're not aware that the Joneses were the

09:17:06

25 subject of any criminal investigation related to this

1 matter; correct?

2 **A.** No, sir.

3 MR. CALLAHAN: Thank you.

4 MR. RATLIFF: Your Honor, may I follow up one

09:17:20 5 question on redirect?

6 THE COURT: Yes, sir.

7 **REDIRECT EXAMINATION**

8 BY MR. RATLIFF:

9 **Q.** Officer Hernandez, when you spoke to Mr. and Mrs.

09:17:28 10 Jones, did you just ask them about cash or did you ask
11 them about monetary instruments also?

12 **A.** I asked them about all monetary instruments.

13 THE COURT: Wait a minute. I didn't hear that.

14 THE WITNESS: I asked them about all monetary
09:17:42 15 instruments, Your Honor.

16 THE COURT: Earlier you said you asked them
17 about currency.

18 THE WITNESS: When the initial questioning
19 happened on the jet way, I include currency, monetary
09:17:53 20 instruments, traveler's checks, money orders, and any money
21 they're carrying for themselves or --

22 THE COURT: Why didn't you say that when you
23 were asked the question the first time? You talked about
24 cash. You answered his question about cash.

09:18:11 25 THE WITNESS: Well, that included the other

1 type of monetary instruments.

2 THE COURT: No, it doesn't. Cash is something
3 that the Federal Reserve prints. What American Express
4 prints may be the functional equivalence is not cash, is
5 it?

09:18:33

6 THE WITNESS: No, it's not, sir.

7 BY MR. RATLIFF:

8 Q. Officer Hernandez, would you tell the Court verbatim
9 what you first asked the Joneses when they first
10 approached you.

09:18:46

11 A. I asked them --

12 Q. Exactly verbatim.

13 A. I asked them if, as a family, if they were
14 transporting in excess of \$10,000 in checks, traveler's
15 checks, currency, monetary instruments for themselves or
16 anybody else.

09:18:58

17 Q. Were your questions ever limited to, "How much cash
18 are you carrying?"

19 A. No.

09:19:14

20 MR. RATLIFF: No further questions, Your Honor.

21 MR. CALLAHAN: I have already asked him my
22 questions.

23 THE COURT: May he go? Call your next witness.
24 Thank you, sir. Call your next witness.

09:20:07

25 Mr. Ratliff?

Direct-Davila/By Mr. Ratliff

1 **DAVID DAVILA,**
2 after having been first cautioned and duly sworn, testified
3 as follows:

4 **DIRECT EXAMINATION**

09:20:09

5 BY MR. RATLIFF:

6 **Q.** Officer Davila, please state your full name for the
7 record.

8 **A.** David Davila.

9 **Q.** And what agency do you work for?

09:20:16

10 **A.** I work for the Department of Homeland Security.

11 **Q.** And what position do you have with them?

12 **A.** I'm an officer, Customs officer.

13 **Q.** Now, directing you to June 2nd of last year, were you
14 part of an enforcement team screening a flight to Dubai
15 from Bush Airport?

09:20:34

16 **A.** Yes, sir.

17 **Q.** And what were your duties as part of that screening
18 team?

19 **A.** My duties were to wait at the end of the jet way if
20 any passengers were going to be sent down for baggage and
21 any issues.

09:20:48

22 **Q.** While you were on duty, were Mr. and Mrs. Jones sent
23 down to your table for verification of funds?

24 **A.** I believe they were sent down to the table that

09:21:05

25 Officer Clark was working, and I was there assisting them

Direct-Davila/By Mr. Ratliff

1 also.

2 **Q.** When they got to the verification table, what was
3 asked of them?

09:21:20

4 **A.** Officer Clark had asked the passengers if they could
5 place all the currency in their possession on top of the
6 table for the currency verification.

7 **MR. BARKER:** Your Honor, is this hearsay? We
8 object to this as hearsay.

09:21:36

9 **THE COURT:** Did you do it? Did you ask the
10 question?

11 **THE WITNESS:** No, sir. It was Officer Clark
12 that asked the questions.

13 **THE COURT:** Where were you when he asked?

14 **THE WITNESS:** I was right next to him.

09:21:43

15 **THE COURT:** Technically you're right, but
16 practically it's just me. Go ahead.

17 **BY MR. RATLIFF:**

18 **Q.** Officer Davila, do you recall what was placed on the
19 table by the Joneses?

09:21:58

20 **A.** No, sir, I can't really remember what it was placed
21 on the table.

22 **Q.** What did you do in relationship to the Joneses while
23 they were at the verification table?

09:22:22

24 **A.** After Officer Clark had told them to place all the
25 currency on top of the table. I asked the Joneses if the

Direct-Davila/By Mr. Ratliff

1 luggage -- any carryons they were carrying was theirs, and
2 if everything inside the luggage or bags or any carryon
3 they had, they took responsibility for everything inside
4 them, which they stated, "Yes."

09:22:41

5 Then I proceeded to ask any carryons they
6 had and just searched through them.

7 Q. Okay. Did you find any currency or monetary --

8 THE COURT: Ask, "What did you find?"

9 MR. RATLIFF: I'm very sorry.

09:22:54

10 THE COURT: Direct questions.

11 MR. RATLIFF: I'm very sorry, Your Honor.

12 BY MR. RATLIFF:

13 Q. What, if anything, did you find during your search of
14 their luggage or belongings?

09:23:03

15 A. The only thing I found was currency that was hidden
16 on the wife, inside her purse.

17 Q. Okay. And do you recall how much those funds were?

18 A. I believe it was about 4,000.

19 Q. And what else did you do besides inspect their bags?

09:23:25

20 A. After I inspected the bags, I began to fill out this
21 paperwork here in front of me.

22 Q. And by "paperwork," are you referring to what's been
23 marked as Plaintiff's Exhibit Number 1?

24 A. Yes, sir.

09:23:42

25 Q. And on Plaintiff's Exhibit Number 1, what, if

Direct-Davila/By Mr. Ratliff

1 anything, did you fill out?

2 **A.** I proceeded to fill out the top part, Part 1.

3 **Q.** And the information that you placed in Part 1, where
4 did you get that information?

09:24:00

5 **A.** The name, the date of birth, the country of
6 citizenship, and passport number and country were all
7 taken from the passenger's passport. All that information
8 is on the front page of the passport, on the validation
9 page.

09:24:21

10 **Q.** Now, what if any information that was not from the
11 passport that's on this document now?

12 **A.** The passenger's address, that one I got from the
13 passenger. I asked him for -- if he had a driver's
14 license, which he did, he handed it over. I asked him if
15 everything on the driver's license is true and correct, as
16 far as the address. He said, "Yes." So I went ahead and
17 wrote down the address that was on the driver's license.

09:24:39

18 The Social Security number, I asked him if
19 he had a Social Security number with him. He said, "No."

09:24:55

20 So I asked him if he knew it, which he did, and he
21 proceeded to give it to me and I wrote it down, the
22 Number 2.

23 **Q.** Where did you get the information as to their
24 destination?

09:25:07

25 **A.** The destination, I asked them what his final

Cross-Davila/By Mr. Barker

1 destination was. And he told me it was a city in
2 Ethiopia. I didn't know how to spell it, so I asked him
3 if he could spell it for me, and he gave me the wording on
4 it, the city name.

09:25:23

5 Q. Did there come a time when it was discovered that
6 more than \$20,200 was in the possession of the Joneses?

7 A. Yes. I think when Officer Boyd got the passenger's
8 jacket, he found a package in there, and placed it on top
9 of the table.

09:25:47

10 Q. And after that discovery, what happened next?

11 A. After that, we called our supervisor and told him of
12 what we found. And in return, called our chief, which is
13 our watch commander, he makes all the decisions, and he
14 decided -- he called our supervisor and the supervisor
15 called us and told us that -- to seize the money.

09:26:09

16 Q. And where were the Joneses taken to?

17 A. The Joneses and all the other officers all went back
18 together, back to our Customs baggage secondary.

19 MR. RATLIFF: No further questions, Your Honor.

09:26:28

20 THE COURT: Mr. Barker?

21 **CROSS-EXAMINATION**

22 BY MR. BARKER:

23 Q. Officer Davila, how far away was the inspection table
24 that you were working at from Officer Hernandez?

09:26:51

25 A. I would say it's about 30 feet.

Cross-Davila/By Mr. Barker

1 Q. Did you witness any of Officer Hernandez'
2 interactions with either of Mr. or Mrs. Jones?

3 A. No, sir.

4 Q. And at the inspection table, did you say that Mrs.
5 Jones and Mr. Jones took full responsibility for what was
6 in the luggage?

7 A. Yes, sir.

8 Q. Did you direct Mrs. Jones to be put her purse on the
9 inspection table, or did another officer do that?

10 A. I don't recall.

11 Q. And where was the currency that Mrs. Jones had in her
12 possession?

13 A. It was inside her purse.

14 Q. And was the purse something that she produced to you
15 voluntarily?

16 A. I don't recall. I might have asked for it. I'm not
17 real sure if she handed it over or I asked for it. I
18 don't recall.

19 Q. But in either event, are you contending that she
20 tried to hide her purse from you?

21 A. No, sir.

22 Q. And did you see Mr. Jones try to hide anything from
23 you at the inspection table?

24 A. No, sir.

25 Q. Before you demanded of the Joneses to put all of

Cross-Davila/By Mr. Barker

1 their currency -- I think you said "currency" in your
2 words -- on the table, did you explain to them that they
3 had to declare traveler's checks on their reporting form?

4 **A.** No, sir.

09:28:19

5 **Q.** Have you criminally investigated either of the
6 Joneses for the facts relating to the trial today?

7 **A.** No, sir.

8 **Q.** Are you aware of any evidence that the funds came
9 from an illegal source?

09:28:37

10 **A.** No, sir.

11 **Q.** Are you aware of any evidence that the funds were
12 going to be spent in an illegal manner?

13 **A.** (Answered negatively).

14 MR. BARKER: No further questions.

09:28:45

15 THE COURT: Mr. Ratliff?

16 MR. RATLIFF: No further questions, Your Honor.

17 THE COURT: You may step down. Thank you, sir.

18 Call your next witness, please.

19 Mr. Ratliff, what was his name?

09:29:11

20 MR. RATLIFF: Davila.

21 THE COURT: Davila?

22 MR. RATLIFF: D-A-V-I-L-A, I believe, Your
23 Honor.

24 THE COURT: I used to have a friend named

09:29:20

25 Davila.

Direct-Boyd/By Mr. Ratliff

1 MR. RATLIFF: And his first name is David, Your
2 Honor.

3 THE COURT: Okay. I just need last names.
4 Good morning, sir.

09:29:32 5 THE WITNESS: Good morning, sir.

6 THE COURT: You can't move the chair, so you
7 have to move the microphone in front of you. Please keep
8 your voice up.

9 MR. RATLIFF: May I inquire, Your Honor?

09:29:46 10 THE COURT: Please, sir.

11 **DAVID WAYNE BOYD,**
12 after having been first cautioned and duly sworn, testified
13 as follows:

14 **DIRECT EXAMINATION**

09:29:47 15 BY MR. RATLIFF:

16 **Q.** Officer Boyd, please state your full name for the
17 record.

18 **A.** David Wayne Boyd.

19 **Q.** And where are you employed?

09:29:53 20 **A.** U.S. Customs and Border Protection, Bush
21 Intercontinental Airport, Houston.

22 **Q.** And what position do you have with them?

23 **A.** I'm a Customs and Border Protection officer.

24 **Q.** How long have you been with Customs and Border
09:30:08 25 Protection?

Direct-Boyd/By Mr. Ratliff

1 **A.** Nine years.

2 **Q.** Sir, I direct you to June 2nd of last year. Were you
3 part of a enforcement team screening a flight to Dubai --

4 **A.** Yes, sir.

09:30:20

5 **Q.** -- at Bush Airport?

6 **A.** Yes, sir.

7 **Q.** Did there come a time when you encountered Mr. and
8 Mrs. Jones in the screening area?

9 **A.** Yes, sir.

09:30:30

10 **Q.** Will you tell the Court what happened.

11 **A.** I was at the secondary screening area where we check
12 the bags and hand-carried items that they bring on to the
13 airplane. We're a currency team, so we check for
14 currency.

09:30:52

15 **Q.** And did there come a time you did an inspection of
16 Mr. Jones?

17 **A.** I inspected a jacket that Mr. Jones had in his
18 possession.

19 **Q.** And what, if anything, did you find in that jacket?

09:31:08

20 **A.** I found a sum of money in the inside pocket of the
21 jacket.

22 **Q.** How large of a sum, roughly, approximately?

23 **A.** I wouldn't know the exact amount, but it was a stack
24 of hundred dollar bills, as I didn't count the money at

09:31:29

25 that point.

Cross-Boyd/By Mr. Barker

1 Q. Okay. And those funds was found where, again?

2 A. Inside the jacket.

3 Q. Of Mr. Jones?

4 A. Yes, sir.

09:31:38

5 Q. And did you accompany Mr. and Mrs. Jones down to an
6 area called secondary inspection?

7 A. Yes, sir.

8 Q. Would you explain to the Court what secondary
9 inspection is.

09:31:50

10 A. In the secondary inspection area, all hand-carried
11 and all checked luggage of a passenger are inspected for
12 contraband or any undeclared currency that might not have
13 been presented at the inspection table originally.

14 MR. RATLIFF: No further questions, Your Honor.

09:32:24

15 THE COURT: Mr. Barker?

16 MR. BARKER: Very briefly, Your Honor.

17 **CROSS-EXAMINATION**

18 BY MR. BARKER:

19 Q. Officer Boyd, let me take you first to the inspection
20 table where you said you were primarily stationed.

09:32:34

21 Would you agree that Mr. Jones voluntarily
22 produced to you the currency in his possession?

23 A. No, sir.

24 Q. Would you agree with me that he voluntarily produced
25 the traveler's checks that were in his possession?

09:32:54

Cross-Boyd/By Mr. Barker

1 **A.** Not to me, sir, he didn't present them to me.

2 **Q.** Were the traveler's checks presented to anyone at the
3 inspection table?

09:33:05

4 **A.** Officer Clark and Officer Davila were at the initial
5 table that they were at.

6 **Q.** And where was Mr. Jones' jacket?

7 **A.** In his possession.

8 **Q.** At the inspection table?

9 **A.** Yes.

09:33:12

10 **Q.** And did he ever put the jacket on the table?

11 **A.** Not to my recollection. I never saw that they
12 belonged -- put the jacket on the table.

13 **Q.** So it's your contention now, despite the government's
14 agreed findings, that Mr. Jones did not voluntarily
15 produce the currency in his possession?

09:33:29

16 **A.** Not what was in the jacket.

17 **MR. RATLIFF:** Your Honor, the government
18 objects to that conclusion of fact. The government never
19 made that concession.

09:33:41

20 **THE COURT:** Okay.

21 **MR. BARKER:** I will reask the question.

22 **THE COURT:** All right. When you say the jacket
23 was in his possession, what does that mean?

09:33:55

24 **THE WITNESS:** It was not laid on the inspection
25 table. I don't really recall if he had the jacket on or if

Cross-Boyd/By Mr. Barker

1 he had it in his hand, but it was not on the inspection
2 table.

3 THE COURT: But he was carrying it in a normal
4 way?

09:34:09

5 THE WITNESS: As I said, Your Honor, I don't
6 remember if he was wearing it.

7 THE COURT: He was either wearing it, slanted
8 over his shoulder or wrapping it over his arm, it was a
9 normal way?

09:34:21

10 THE WITNESS: Yes, sir.

11 THE COURT: He wasn't hiding it?

12 THE WITNESS: No, sir, he wasn't hiding.

13 THE COURT: Not that it would have been easy to
14 do.

09:34:28

15 MR. BARKER: Thank you, Your Honor. May we
16 move on?

17 MR. BARKER:

18 Q. If I could take you now to the secondary inspection
19 room when you went after the inspection table?

09:34:36

20 A. Yes, sir.

21 THE COURT: Would that make it tertiary?

22 MR. BARKER: I guess that would make it a
23 tertiary inspection.

24 BY MR. BARKER:

09:34:43

25 Q. After that room, was there a pat down of Mr. Jones

Cross-Boyd/By Mr. Barker

1 performed?

2 **A.** There was a pat down done, but I did not witness a
3 pat down.

4 **Q.** Okay. And are you aware, did you -- were you
5 involved in the inspection of the checked luggage that was
6 pulled from the airplane?

7 **A.** Yes.

8 **Q.** Did you find any undeclared currency or monetary
9 instruments there?

10 **A.** No, sir.

11 **Q.** Are you aware of any illegal or criminal
12 investigation, any criminal investigation of the Joneses
13 regarding the facts at issue here today?

14 **A.** No, sir.

15 **Q.** Are you aware that the funds and the currency and
16 monetary instruments they were transporting were derived
17 from any criminal or illegal source?

18 **A.** No, sir, I would not have that knowledge.

19 MR. BARKER: Thank you, Your Honor.

20 THE COURT: Isn't that also hearsay?

21 MR. BARKER: I don't know the answer to that.
22 I suppose it would.

23 THE COURT: The answer is yes.

24 Mr. Ratliff?

25 MR. RATLIFF: No further questions, Your Honor.

Direct-Carmen/By Mr. Ratliff

1 THE COURT: You may step down, officer.

2 THE WITNESS: Sure.

3 THE COURT: Mr. Ratliff, when they're through,
4 may they go back to work? It's up to you.

09:35:51 5 MR. RATLIFF: They're all traveling together,
6 Your Honor, and I want to keep them available.

7 THE COURT: Okay.

8 MR. RATLIFF: Just in case of rebuttal.

9 THE COURT: It's up to you.

09:35:59 10 MR. RATLIFF: Thank you very much, Your Honor.

11 THE COURT: Mrs. Jones, don't worry about her.
12 She makes better sense than the lawyers.

13 Good morning. Could you sit up there and
14 speak right into the microphone, please, sir.

09:36:31 15 THE WITNESS: Yes, sir.

16 THE COURT: Mr. Ratliff?

17 **RUSSELL CARMEN,**

18 after having been first cautioned and duly sworn, testified
19 as follows:

09:36:40 20 **DIRECT EXAMINATION**

21 BY MR. RATLIFF:

22 **Q.** Officer Carmen, please state your full name for the
23 record.

24 **A.** Russell Carmen.

09:36:45 25 **Q.** And where are you employed, sir?

Direct-Carmen/By Mr. Ratliff

1 **A.** I'm employed with the Department of Homeland Security
2 U.S. Customs and Border Protection at George Bush
3 Intercontinental Airport.

4 **Q.** What position do you have with them?

09:36:55

5 **A.** I am part-time field training officer, and I'm a
6 member of the drug enforcement team.

7 **Q.** I direct your attention to June 2nd of last year.
8 Were you part of the enforcement team that was screening a
9 flight to Dubai?

09:37:11

10 **A.** I was, sir.

11 **Q.** And did you have an occasion to be involved in the
12 seizure of funds from Mr. and Mrs. Jones?

13 **A.** I was the person that verified the account in our
14 secondary.

09:37:25

15 **Q.** And how did you verify the account?

16 **A.** I took the money after the primary officer had
17 already counted it. I counted it myself, wrote down my
18 numbers, after the supervisor also counted it, we compared
19 our three sheets, made sure we all had the same count.

09:37:41

20 **Q.** Now, who did you count the money in front of?

21 **A.** I counted it in front of the passengers.

22 THE COURT: There's not a dispute about the
23 amount of money, is there?

24 MR. BARKER: No, Your Honor. We stipulate.

09:37:53

25 MR. RATLIFF: The only thing, Your Honor, in

1 the count there was 146 one hundred bills. That's the only
2 testimony I'm seeking to achieve.

3 THE COURT: Well, 146?

4 MR. RATLIFF: \$100 bills.

09:38:06

5 THE COURT: And the traveler's checks?

6 MR. RATLIFF: There were traveler's checks,
7 there were 19 twenties, six tens, and six fives, Your
8 Honor.

9 THE COURT: Anything else?

09:38:25

10 MR. RATLIFF: No, Your Honor.

11 THE COURT: Thank you.

12 MR. RATLIFF: With that into evidence, I have
13 no further questions for this witness.

14 THE COURT: You're good.

09:38:35

15 THE WITNESS: Yes, sir.

16 THE COURT: You may step down.

17 MR. RATLIFF: Your Honor, the plaintiff rests.

18 THE COURT: Yes, sir?

19 MR. CALLAHAN: Your Honor, I'd like to call

09:39:08

20 Mr. Jones to the stand.

21 THE COURT: Don't you want to make a motion?

22 MR. CALLAHAN: I would say that a motion for
23 directed verdict, Agent Hernandez admitted that Mr. Jones
24 was asked how much currency he had on him, and Mr. Jones'

09:39:21

25 response was that he didn't know. Agent Hernandez admitted

1 that Mr. Jones, when he answered how many dollars he had on
2 him, that he guessed 20,200. And that Agent Hernandez
3 admitted that he told him to sign the form.

4 I would move for directed verdict on that
5 ground, Your Honor.

09:39:37

6 THE COURT: There's 146 hundreds, that's
7 \$14,600?

8 MR. RATLIFF: I'm sorry. Say that again, Your
9 Honor.

09:39:56

10 THE COURT: 146 hundreds is \$14,600.

11 MR. RATLIFF: Yes, Your Honor.

12 THE COURT: 20 -- 18 twenty-dollar traveler's
13 checks is \$3,800; is that right?

14 MR. CALLAHAN: My understanding is the
15 breakdown is that there were \$20,000 in traveler's checks,
16 and a total of \$15,131 in currency between the \$4,000 in
17 currency that Mrs. Jones had, and then the --

09:40:12

18 THE COURT: Well, he only --

19 MR. CALLAHAN: 11,000 -- I'm not sure what the
20 import of the 146 hundreds versus -- my understanding was
21 there were 20,000 in traveler's checks and Mrs. Jones had
22 \$4,000 on her, and then the total currency Mr. Jones had
23 \$11,131.

09:40:30

24 THE COURT: By that --

09:40:51

25 MR. CALLAHAN: \$10,000 of that may have been

1 traveler's checks. I'm not sure.

2 THE COURT: Is it in proposed findings?

3 MR. CALLAHAN: All of this is in proposed
4 findings of fact.

09:41:00

5 MR. RATLIFF: Yes, Your Honor.

6 THE COURT: I'll quit trying to do the
7 arithmetic.

8 MR. RATLIFF: Your Honor, just for
9 clarification, Ms. Jones had \$4,000 in cash. Mr. Jones had
10 \$11,131. And of that, he had approximately 106 one
11 hundred-dollar bills.

09:41:14

12 THE COURT: So between the two of them, it
13 added up to that \$31,000?

14 MR. RATLIFF: Yes, Your Honor.

09:41:34

15 THE COURT: That's all cash, all currency, all
16 treasury bills, all Deutsch Bank bonds?

17 MR. CALLAHAN: 35,131 was the total currency.
18 Mr. Jones had 31,131 currency in traveler's checks on him,
19 and Ms. Jones never had \$10,000. She had \$4,000 on her in
20 cash. I believe that's stipulated.

09:41:56

21 THE COURT: What's the standard, Mr. Ratliff?

22 MR. RATLIFF: By a preponderance of the
23 evidence, Your Honor.

24 THE COURT: I know. But, I mean, what are the
25 statutory criteria for seizing money that is -- that's

09:42:22

1 misreported?

2 MR. RATLIFF: Seizing money that's misreported?

3 THE COURT: Yes, sir.

4 MR. RATLIFF: They're at the border. They are

09:42:40

5 subject to search and seizure, and the --

6 THE COURT: Well, I understand the search and I

7 understand seizing contraband. This is not actually

8 contraband.

9 MR. RATLIFF: No, Your Honor.

09:42:53

10 THE COURT: This is just undeclared legitimate
11 property.

12 MR. RATLIFF: That is correct, Your Honor.

13 Under Title 31 USC 5317(c) (2), it provides for the seizure

14 and forfeiture of funds involved in the violation of the

09:43:11

15 currency reporting requirements. And the government's

16 contention is that by their not truthfully declaring the

17 full amount of money that they were transporting, they

18 violated currency reporting requirements, and under 5317,

19 the officers were entitled to seize those funds for

09:43:31

20 forfeiture.

21 THE COURT: Didn't they report it when they

22 were asked the details?

23 MR. RATLIFF: No, Your Honor. My position is

24 that at no time did they report the full amount of money

09:43:46

25 that they were carrying. Mr. Jones only reported that he

1 was carrying \$20,200. It was on a statement, that if I can
2 point out on, Plaintiff's Exhibit Number 1.

3 THE COURT: I understand he said \$20,200 in
4 cash.

09:44:07

5 MR. RATLIFF: Yes, Your Honor.

6 THE COURT: How much cash did he have?

09:44:41

7 MR. RATLIFF: In fact, he had -- he had
8 approximately \$11,131 in cash. He had \$20,000 in American
9 Express traveler's checks. In total cash and traveler's
10 checks, he had approximately \$31,000 on him. And he only
11 told the officers that he had \$20,200.

12 THE COURT: Of currency?

13 MR. RATLIFF: Of currency. And that's
14 incorrect, because he didn't have that much in currency.

09:44:58

15 He had that much in American Express checks. He at no time
16 fully reported the funds that he was carrying in total,
17 attempting to carry in total out of the United States,
18 that's \$31,000, Your Honor. And when he was -- I'm sorry,
19 Your Honor.

09:45:33

20 THE COURT: No. Go ahead.

21 MR. RATLIFF: That's it, Your Honor.

22 THE COURT: So what he didn't declare was
23 roughly \$15,000?

24 MR. RATLIFF: Yes, Your Honor.

09:45:50

25 MR. CALLAHAN: Your Honor, one point, since we

Direct-Kyle Jones/By Mr. Callahan

1 are making distinction between dollars and traveler's
2 checks. At that point he didn't declare \$15,000.

3 THE COURT: Speak up.

09:46:03

4 MR. CALLAHAN: He didn't declare the \$20,000 in
5 monetary instruments and the traveler's checks. I was just
6 trying to clear that up. You seem to focus on that,
7 because that's what he was being asked about on the jet
8 way. So he didn't know to report the \$20,000 in traveler's
9 checks.

09:46:22

10 THE COURT: I just want to get the components
11 straight. Since we're all here, I'll go ahead and hear it.
12 I'll carry your motion.

13 MR. CALLAHAN: Your Honor, I'd like to call
14 Mr. Jones.

09:47:40

15 **KYLE DANIEL JONES,**
16 after having been first cautioned and duly sworn, testified
17 as follows:

18 **DIRECT EXAMINATION**

19 BY MR. CALLAHAN:

09:48:01

20 **Q.** Mr. Jones, if you would, state your name for the
21 record.

22 **A.** Kyle Daniel Jones.

23 THE COURT: Pull that microphone closer to you.

24 BY MR. CALLAHAN:

09:48:13

25 **Q.** Mr. Jones, let's begin with a little bit of

Direct-Kyle Jones/By Mr. Callahan

1 background. Why were you and your family at George Bush
2 Intercontinental Airport on June 2nd, 2011?

3 **A.** We was going on vacation out to Ethiopia.

4 **Q.** And how long had you been planning your trip?

09:48:27

5 **A.** Two years.

6 **Q.** And why so?

7 **A.** Because we had -- just had a new born baby and we
8 were going to go out there after the baby makes two so she
9 could have all of her shots and all that. She couldn't

09:48:42

10 travel before then.

11 **Q.** And how long was your trip to Ethiopia going to last
12 that summer?

13 **A.** Two months.

14 **Q.** Let's shift topics a little bit and talk about your
15 awareness of any currency reporting requirements before
16 your trip. Okay?

09:48:52

17 **A.** Okay.

18 **Q.** Now, had you ever filled out a currency reporting
19 form in prior trips?

09:49:01

20 **A.** No, I haven't.

21 **Q.** Before the trip at issue here, had you ever been
22 asked by a Customs agent while traveling, whether you were
23 carrying more than \$10,000?

24 **A.** No, I hadn't.

09:49:11

25 **Q.** Had you ever carried more than \$10,000 while

Direct-Kyle Jones/By Mr. Callahan

1 traveling overseas before?

2 **A.** No, I hadn't.

3 **Q.** Let's -- actually if I could borrow this. I think
4 you saw Mr. Ratliff reference this poster at the airport.

09:49:27 5 Did you see him reference that?

6 **A.** No, I never saw that sign.

7 **Q.** Did you ever see this poster at the airport that
8 day?

9 **A.** No, I didn't.

09:49:34 10 MR. CALLAHAN: Just for the record, we're
11 referencing what we previously called Plaintiff's
12 Exhibit 1.

13 BY MR. CALLAHAN:

14 **Q.** Now, let's talk a little bit about why you were
09:49:47 15 bringing these funds on your trip.

16 First, how would you characterize the
17 ability to use credit cards in Ethiopia?

18 **A.** Nearly impossible.

19 **Q.** And why do you say that?

09:49:58 20 **A.** Because they don't use credit cards. There's only
21 one place I know of that uses credit cards in Ethiopia,
22 and that's the Sheraton Hotel.

23 **Q.** Now, with respect to the currency and the traveler's
24 checks that you brought, what were the main focus, what
09:50:14 25 were the main things you expected to spend the funds on?

Direct-Kyle Jones/By Mr. Callahan

09:50:38

1 **A.** Well, the traveler's checks were used for emergency,
2 like hospital for my daughter, myself and my wife, and the
3 money was for a wedding celebration that we were going to
4 have. And also rental property, the housing, daily
5 living, and also birthday -- second birthday party for my
6 daughter.

09:50:53

7 **Q.** Now, you mentioned concerns about the possibility of
8 medical emergencies and you mentioned your daughter's
9 immunizations?

10 THE COURT: Yes, he did. Don't repeat answers
11 that you already have.

12 BY MR. CALLAHAN:

09:51:05

13 **Q.** What were your concerns about the possibility of
14 medical emergencies that made you want to bring that
15 amount of emergency funds?

16 THE COURT: Have you ever gone to Africa?

17 MR. CALLAHAN: Just the Middle East, Your
18 Honor.

09:51:15

19 THE COURT: Okay. They give you about nine
20 pages of shots to get, things to do, precautions to take,
21 and if you did all of them, you would need 12 bearers to
22 carry all your medical equipment and luggage.

23 MR. CALLAHAN: I understand, Your Honor.

09:51:30

24 THE COURT: And I'd do the same thing if I was
25 going to Detroit.

Direct-Kyle Jones/By Mr. Callahan

1 MR. CALLAHAN: Fair enough.

2 BY MR. CALLAHAN:

3 Q. And you were concerned about malaria and yellow
4 fever?

09:51:38

5 A. And food poisoning.

6 THE COURT: And cholera and diarrhea?

7 THE WITNESS: Yes.

8 BY MR. CALLAHAN:

09:51:43

9 Q. And was it anticipated that all the funds you were
10 bringing would be spent on your trip?

11 A. No. The emergency funds were supposed to come back
12 if there was no emergency.

09:51:56

13 Q. Now, let's talk about where the funds that were
14 ultimately seized by the government came from. Where did
15 those funds come from? How were they generated?

16 A. They came from my savings, from our jobs.

17 Q. And what is your job, Mr. Jones?

18 A. I work for We Care Homes Incorporated, which we take
19 care of the mentally challenged, the handicapped,
20 homebound, and elderly.

09:52:12

21 Q. Now, once the government seized your funds before
22 your trip, did you have to get replacement funds?

23 A. Yes, I did.

24 Q. And where did those replacement funds come from?

09:52:25

25 A. From my savings.

Direct-Kyle Jones/By Mr. Callahan

1 Q. After the government seized your family's funds, did
2 you make that day's flight?

3 A. No, I didn't.

4 Q. How much did it cost to change your family's flight
5 that day?

6 A. Approximately --

7 MR. RATLIFF: Objection, Your Honor.
8 Irrelevant.

9 THE COURT: Overruled.

10 THE WITNESS: Approximately \$1,500.

11 BY MR. CALLAHAN:

12 Q. And did you have to procure a lodging for the night?

13 A. Yes, I did. A hotel room.

14 Q. And about --

15 A. And food.

16 Q. About how much do you think the cost associated
17 with --

18 THE COURT: Even so, the record is clear,
19 unless you have exhibits. He's from Louisiana. Actually,
20 you get shots to go to Louisiana too.

21 MR. CALLAHAN: Probably true. Probably true.

22 BY MR. CALLAHAN:

23 Q. Mr. Jones, you were traveling to Houston from where?

24 A. From Breaux Bridge, Louisiana.

25 Q. So you needed -- because you missed your flight over

Direct-Kyle Jones/By Mr. Callahan

1 night, you needed to procure a hotel room for your family?

2 **A.** Yes.

3 THE COURT: He couldn't afford to live in
4 Breaux Bridge, Louisiana.

09:53:21

5 BY MR. CALLAHAN:

6 **Q.** Mr. Jones, let's actually move -- we heard the
7 government talk a little bit about your interaction with
8 Agent Hernandez. Let's move to that.

09:53:31

9 Where were you when Agent Hernandez first
10 addressed you?

11 **A.** In -- about to board the plane.

12 **Q.** And what did Agent Hernandez ask you first?

13 **A.** He said, "Can you step this way, please?"

09:53:45

14 **Q.** And then where were Mrs. Jones and your daughter at
15 this time?

16 **A.** They were close to the door that led to the back.

17 **Q.** And what was Mrs. Jones doing?

18 **A.** She was attending to our daughter.

19 **Q.** Similar to what she's doing now?

09:53:58

20 **A.** To Soleanna.

21 **Q.** Your daughter Soleanna is how old?

22 **A.** Yes.

23 THE COURT: Two years?

09:54:07

24 THE WITNESS: She was just two months shy of
25 two years when we went to Ethiopia. We were going to

Direct-Kyle Jones/By Mr. Callahan

1 Ethiopia.

2 BY MR. CALLAHAN:

3 Q. And your wife was minding your daughter during this
4 time?

09:54:17

5 A. Yes.

6 Q. Now, did Agent Hernandez address your wife?

7 A. No, he didn't.

8 Q. Did Mrs. Jones address Agent Hernandez during this
9 interaction?

09:54:25

10 A. No.

11 THE COURT: By "address," you mean talk to?

12 MR. CALLAHAN: I'm sorry, Your Honor?

13 THE COURT: By "address" do you mean talk to?

14 MR. CALLAHAN: Yes. Did she talk to Agent

09:54:31

15 Hernandez.

16 THE COURT: Talk in a normal way.

17 THE WITNESS: No, she didn't.

18 BY MR. CALLAHAN:

19 Q. Now, so Agent Hernandez addressed you to walk toward
20 him; correct?

09:54:42

21 A. Yes.

22 Q. Okay. Then what did he ask you?

23 A. He asked me, "How much U.S. currency are you
24 carrying?"

09:54:50

25 Q. And what did you say?

Direct-Kyle Jones/By Mr. Callahan

1 A. I said I didn't know.

2 Q. And then what did he ask you?

3 A. He said, "You mean to tell me you don't know how much
4 U.S. currency you have?"

09:55:01 5 Q. And what was your response?

6 A. And I said I didn't know.

7 Q. And then after that, what did he ask you?

8 A. He said, "How many dollars do you have?"

9 Q. And what did you say in response, Mr. Jones?

09:55:12 10 A. I said, "Maybe 20,200."

11 Q. And what did Agent Hernandez do after that?

12 A. He put the 20,200 on the sheet of paper, and he said,
13 "Sign here."

14 Q. Was the rest of the form blank, or was it filled out?

09:55:31 15 A. It was blank.

16 Q. Now, what did your wife do, if anything, to verify
17 to Agent Hernandez that the 20,200 amount on the form was
18 correct?

19 A. She didn't do anything.

09:55:40 20 Q. Now, at this -- in this interaction with Officer
21 Hernandez --

22 THE COURT: Conversation. Not "interaction."

23 MR. CALLAHAN: Sure.

24 BY MR. CALLAHAN:

09:55:51 25 Q. In the conversation with --

Direct-Kyle Jones/By Mr. Callahan

1 THE COURT: You're not a patent lawyer.

2 MR. CALLAHAN: Fortunately for all of us;
3 right?

4 THE COURT: You need to speak English.

09:55:58

5 BY MR. CALLAHAN:

6 Q. In this conversation that you were having with
7 Officer Hernandez, did he explain that you needed to be
8 accurate on the form?

9 A. No, he didn't.

09:56:05

10 Q. What was Agent Hernandez' explanation of the
11 difference between monetary instruments and currency or
12 dollars?

13 A. One didn't come up.

14 Q. Did Agent Hernandez mention monetary instruments, to
15 your memory?

09:56:18

16 A. No, he didn't.

17 Q. Did Agent Hernandez mention traveler's checks?

18 A. No, he didn't.

19 Q. Did you ask Agent Hernandez if you and your wife
20 could count all the dollars that you-all had?

09:56:25

21 A. No, I didn't.

22 Q. Why didn't you?

23 A. I didn't know I could.

24 Q. What was Agent Hernandez' demeanor during your
25 conversation?

09:56:35

Direct-Kyle Jones/By Mr. Callahan

1 **A.** I feel he was kind of short, impatient.

2 **Q.** Now, did you read the FinCen 105 form before you
3 signed it?

4 **A.** No, I didn't.

09:56:49

5 **Q.** Why not?

6 **A.** Because the police officer told me to sign and I
7 signed. And I thought that would be the end of it.

8 **Q.** Well, let's look, you have a folder in front of you
9 and if you'd turn to Plaintiff's Exhibit 1.

09:57:11

10 Now, if you look on the area of that form,
11 right above your signature.

12 THE COURT: I've read it.

13 BY MR. CALLAHAN:

14 **Q.** And Mr. Jones --

09:57:21

15 THE COURT: It says what it says.

16 MR. CALLAHAN: Good enough.

17 BY MR. CALLAHAN:

18 **Q.** Now, before you had filled out this form or before
19 Agent Hernandez had filled out "20,200," what were your
20 conversations, if any, with Mrs. Jones, about how much
21 money she was carrying?

09:57:43

22 **A.** None.

23 **Q.** Do you know how much money she was carrying?

24 **A.** No, I didn't.

09:57:50

25 **Q.** Now, when you provided the information to Agent

Direct-Kyle Jones/By Mr. Callahan

1 Hernandez, did you intend to count the traveler's checks
2 you were carrying in your estimate?

3 **A.** No.

4 **Q.** Why not?

09:58:00

5 **A.** He asked if they were U.S. dollars. I didn't
6 perceive that traveler's checks was U.S. dollars.

7 **Q.** Mr. Jones, did you intend to evade the currency
8 reporting requirements?

9 **A.** No.

09:58:17

10 **Q.** Now, what was the next step, after Agent Hernandez
11 had directed you to sign the form, what then?

12 **A.** He told me to get in the line and go to the table.

13 **Q.** How long did your conversation with Agent Hernandez
14 last?

09:58:28

15 **A.** Two minutes.

16 **Q.** Now, you're in line at the inspection line. What
17 were you thinking at this time?

18 **A.** I was figuring, what's going on here, you know? I
19 didn't understand.

09:58:44

20 **Q.** What happened when you got to the head of the line?

21 **A.** When I got to the table?

22 **Q.** Yes.

23 **A.** Oh, when I got to the table, the guy asked me, he
24 said, "Put all your money, your currency, your checks,

09:58:57

25 your traveler's checks, all currency on the table."

Direct-Kyle Jones/By Mr. Callahan

1 Q. Was that the first time that any agent had mentioned
2 traveler's checks?

3 A. Yes.

4 Q. And what did you -- what did you do at that point?

09:59:10

5 A. I began to go through the bags, through the carryon,
6 which was about six or seven carryons, to pull out
7 anything that I had in currency, in dollars and traveler's
8 checks.

9 Q. What was your wife doing at this time?

09:59:26

10 A. She was -- really, Soleanna wasn't cooperating
11 whatsoever, so she was handling her and she was also
12 trying to get her wallet out of her purse.

13 Q. After you had placed -- did you place all of your
14 currency and your traveler's checks on the inspection
09:59:48 15 table at that time?

16 A. Yes, I did.

17 Q. What happened after you left the inspection table?

18 A. We went to -- through the airport to another room
19 where we were searched.

10:00:04

20 Q. Is this where they conducted the pat down searches?

21 A. Yes.

22 Q. Did the pat down searches discover any more currency
23 or traveler's checks?

24 A. No, it didn't.

10:00:15

25 Q. Now, were you interviewed about your trip and the

Direct-Kyle Jones/By Mr. Callahan

1 seized funds by a Homeland security agent at that time?

2 **A.** Yes.

3 **Q.** And what did you tell her -- what did you tell the
4 officer or agent that interviewed you, you were going to
5 do with your money when in Ethiopia?

6 **A.** The same thing that I said, about the wedding
7 celebration, the birthday, the emergency funds and the
8 rental housing, and car.

9 **Q.** Mr. Jones, if you would quickly, let's look at
10 Plaintiff's or Claimant's Exhibit 2 -- Plaintiff's
11 Exhibit 2.

12 **MR. CALLAHAN:** And, Your Honor, I know you have
13 a booklet up there.

14 **BY MR. CALLAHAN:**

15 **Q.** What is this first picture of?

16 **A.** This is my daughter's birthday party.

17 **Q.** Is this one of the things that you had spent the
18 replacement funds on after the government took them?

19 **A.** Yes, yes.

20 **Q.** Let's look at the third picture. What does this
21 picture show?

22 **A.** This is part of the guests that's underneath tents.

23 **Q.** And who are the guests, primarily?

24 **A.** Extended family and friends.

25 **Q.** And about how many people came to the party?

Direct-Kyle Jones/By Mr. Callahan

1 **A.** Approximately 75.

2 **Q.** Now, let's go actually to the last picture. I won't
3 ask you about the picture you dancing with your wife, but
4 you might be under oath about who was the best dancer.

10:01:50

5 **A.** I'm not much of a good dancer, especially the Arab
6 dancing.

7 THE COURT: The last picture is the daughter?

8 MR. CALLAHAN: Last picture is the daughter.

9 BY MR. CALLAHAN:

10:01:54

10 **Q.** If you'd look at that for a minute, Mr. Jones. Where
11 is your daughter in this picture?

12 **A.** Oh, my daughter is in one of the rent houses -- one
13 of the rent houses we rented in Ethiopia.

14 **Q.** Did you have to buy appliances for that house?

10:02:09

15 **A.** Yes. A few appliances.

16 **Q.** About how much did you have to spend on this wedding
17 celebration and birthday party for about 75 guests in
18 Ethiopia?

19 **A.** Approximately 5- to \$7,000.

10:02:24

20 **Q.** About how much did you spend renting the house?

21 **A.** About 3,000.

22 MR. CALLAHAN: That's all the questions I have
23 for Mr. Jones. Thank you.

24

25

Cross-Kyle Jones/By Mr. Ratliff

CROSS-EXAMINATION

BY MR. RATLIFF:

Q. Mr. Jones, my name is Albert Ratliff. I'm going to ask you some questions. If you don't understand the questions, let me know and I'll try to rephrase it.

Is it correct that you said that when you were at the verification table, you placed all of the cash, currency, traveler's checks, and everything on the table?

A. Yes, I did.

Q. Did you place the money that you had on your jacket -- in your jacket pocket on the table?

A. Yes, I did.

Q. You placed that money -- you took it out of your pocket?

A. I took it out of my jacket pocket and placed it on the table.

Q. And your testimony is that Plaintiff's Exhibit Number 1, you didn't read that?

A. No, sir.

Q. And it's about 17 feet from where Officer Hernandez had a conversation with you to the inspection table, and during that time, you didn't think that it was important for you to look at what you just signed?

A. I didn't have that.

Cross-Kyle Jones/By Mr. Ratliff

1 Q. You didn't have this?

2 A. No, he brought that to the table.

3 Q. He brought this to the table?

4 A. Yes.

10:03:53

5 Q. Okay. And when you got to the table, did you ever
6 tell them that I do have more than \$20,200 on me in cash
7 and traveler's checks?

8 A. No, I didn't.

9 Q. You never told him that?

10:04:11

10 A. No.

11 Q. Did you ever tell anybody that you had more than
12 \$20,200 in cash and traveler's checks on you?

13 A. No, I didn't.

14 Q. When you were at that airport, you knew how much
15 money you had; is that correct?

10:04:25

16 A. No, I didn't.

17 Q. Did you know you had \$10,000 in cash?

18 A. No, I didn't.

19 Q. I think you said that you never carried more than
20 \$10,000 in cash out of the country?

10:04:37

21 A. That's correct.

22 Q. So in this one occasion were you, in fact, carrying
23 \$10,000 in cash out of the country, you were not aware
24 that you had that amount of money on you?

10:04:49

25 A. I wouldn't -- wasn't aware of the exact amount of

Cross-Kyle Jones/By Mr. Ratliff

1 money I was carrying.

2 Q. How much money did you think you were carrying in
3 cash?

4 A. My guesstimation was what I told the officer.

10:05:00 5 Q. So even though they found over \$30,000 on you, at
6 that time, you thought you only had \$20,200 on you?

7 A. I was counting --

8 MR. CALLAHAN: Objection to the question. They
9 didn't find 35,000 in dollars on him.

10:05:16 10 THE COURT: Wait a minute.

11 MR. CALLAHAN: I'm sorry, Your Honor.

12 THE COURT: There's that's a common theme here.
13 Let him ask his questions.

14 MR. CALLAHAN: Yes, Your Honor.

10:05:27 15 BY MR. RATLIFF:

16 Q. Sir, I'll rephrase the question.

17 A. Okay.

18 Q. In total funds that you had in traveler's checks, in
19 cash, you were carrying more than \$31,000?

10:05:40 20 A. Yes.

21 Q. In value?

22 A. Yes.

23 Q. And when up indicated that you only had \$20,200, you
24 had forgotten about the additional \$10,000?

10:05:53 25 A. No. They asked me how much U.S. currency I had, how

Cross-Kyle Jones/By Mr. Ratliff

1 many dollars I had, and my guesstimation was the dollars,
2 not the traveler's checks.

10:06:11

3 Q. Okay. And when you got to the verification table,
4 and you said that they asked you about traveler's checks,
5 monetary instruments?

6 A. Yes.

7 Q. Everything. And how much money did you tell them
8 that you had at that time?

9 A. They didn't ask me how much money I had at that time.

10:06:20

10 Q. Okay. Did Officer Hernandez explain to you your
11 obligation to report the currency and monetary instruments
12 that you had taken out of the country?

13 A. No, he didn't.

10:06:59

14 Q. At any time did you -- did you correct the amount of
15 money -- the amount of currency and coins that was written
16 on Plaintiff's Exhibit Number 1?

17 A. No, I didn't.

10:07:54

18 Q. Sir, is it your explanation that when you told
19 Officer Hernandez you were carrying \$20,200 in cash, that
20 you were just making a guess?

21 A. Yes.

22 Q. Did you take Officer Hernandez' question seriously?

23 A. Excuse me?

10:08:11

24 Q. When he asked you that question, a law enforcement
25 officer in uniform, did you feel compelled to tell him the

Cross-Kyle Jones/By Mr. Ratliff

1 truth?

2 **A.** Of course.

3 **Q.** Then why did you guess?

4 **A.** That was my only way of answering the question.

10:08:26 5 **Q.** Could you have counted your money?

6 **A.** I didn't think of asking him to count it before he --
7 the way he approached me, it was like he needed to know
8 now and he needed to know the exact amount.

9 **Q.** Sir, after the money was seized, did you file a
10:08:59 10 petition for applying penalties of forfeiture in attempt
11 to get your money back?

12 **A.** Yes, I did.

13 MR. RATLIFF: May I approach the witness?

14 THE COURT: Yes, sir.

10:09:19 15 BY MR. RATLIFF:

16 **Q.** Sir, I show you what's been marked as Plaintiff's
17 Exhibit Number 1. Will you take a moment and look at
18 that.

19 MR. CALLAHAN: Just for clarity of the record,
10:09:51 20 did you call Plaintiff's Exhibit 1 --

21 MR. RATLIFF: I'm very sorry. Sir, can I have
22 just a moment? It's Plaintiff's Exhibit Number 3.

23 THE COURT: It's the complaint, isn't it, or
24 answer?

10:10:06 25 MR. CALLAHAN: Is this a rebuttal exhibit or

Cross-Kyle Jones/By Mr. Ratliff

1 something?

2 MR. RATLIFF: Yes.

3 THE COURT: It's part of the record; right?

4 MR. RATLIFF: No, Your Honor.

10:10:11 5 MR. CALLAHAN: It's not on his exhibit list.

6 MR. RATLIFF: No, Your Honor. It's rebuttal.

7 May I?

8 THE COURT: It wasn't filed in this case?

9 MR. CALLAHAN: It was filed as an

10:10:22 10 administrative matter to the Customs agent. They have a
11 process by which they say they return people's money, but
12 they didn't return it in this case, which then led to the
13 civil forfeiture case to be brought. This document was not
14 on the government's exhibit list.

10:10:36 15 BY MR. RATLIFF:

16 Q. Do you recognize that document, sir?

17 A. Yes.

18 Q. Sir, I direct you to the second page of that document
19 at the very bottom. Is that your name and signature on
10:11:11 20 the documents?

21 A. Yes, it is.

22 Q. And let's -- all right. I direct you to the sixth
23 page. Do you see Paragraph E there?

24 THE COURT: Paragraph D?

10:11:59 25 MR. RATLIFF: E, Your Honor, I'm sorry.

Cross-Kyle Jones/By Mr. Ratliff

1 THE WITNESS: Okay.

2 BY MR. RATLIFF:

3 Q. Now, sir, what was told to fines, penalties and
4 forfeiture, in that petition as to the reason why you did
10:12:34 5 not tell the officers about all of the currency, monetary
6 instruments and traveler's checks that you had on you?

7 A. Excuse me, I didn't understand the question.

8 Q. Okay. Let me ask you this question. In this
9 petition, was it your explanation that claimant Kyle Jones
10:12:54 10 is an Air Force veteran --

11 THE COURT: I've read it.

12 MR. RATLIFF: Yes.

13 BY MR. RATLIFF:

14 Q. Is Paragraph E the explanation that was given to
10:13:05 15 fines, penalties and forfeiture, as to the reason why you
16 didn't fully report to the officers?

17 A. No, it wasn't.

18 Q. Is this your statement?

19 A. Yes.

10:13:13 20 MR. RATLIFF: Your Honor, I move into evidence
21 Plaintiff's Exhibit 3.

22 THE COURT: Can we just take that page, or do
23 we need the whole thing -- you want the whole thing?

24

25

Redirect-Kyle Jones/By Mr. Callahan

1 MR. RATLIFF: It doesn't have to be the whole
2 thing, Your Honor.

3 BY MR. RATLIFF:

10:13:58

4 Q. Just to make it clear on the record, Exhibit --
5 Plaintiff's Exhibit Number 3, is what's in Paragraph E,
6 the statement that you submitted to fines, penalties and
7 forfeiture, as part of the petition of admission?

8 A. Okay.

10:14:09

9 MR. RATLIFF: Thank you very much. Your Honor,
10 I move this into evidence.

11 THE COURT: It's admitted.

12 MR. RATLIFF: Do you want to read it?

13 MR. CALLAHAN: No, that's all right.

14 MR. RATLIFF: No further questions, Your Honor.

10:14:33

15 MR. CALLAHAN: Your Honor, I would move, we can
16 put in the full statement for completeness if you want to
17 read the rest of it.

18 **REDIRECT EXAMINATION**

19 BY MR. CALLAHAN:

10:14:41

20 Q. Mr. Jones, I just want to ask you a couple of
21 questions.

22 THE COURT: You put it in there. You really
23 want me to read all of it?

24 MR. CALLAHAN: No.

10:14:47

25 THE COURT: Okay.

Redirect-Kyle Jones/By Mr. Callahan

1 MR. CALLAHAN: I'll withdraw.

2 BY MR. CALLAHAN:

3 Q. Mr. Jones, your attorney submitted the prior exhibit
4 that Mr. Ratliff was talking about; correct?

10:15:00 5 A. Correct, I was still in Ethiopia.

6 Q. You were in Ethiopia when was this submitted;
7 correct?

8 A. That's correct.

9 Q. And you are an Air Force veteran?

10:15:09 10 A. Yes, I am.

11 Q. And describe the kind of training that you had
12 received that Mr. Ratliff was mentioning?

13 A. With the statement?

14 Q. No. Just describe the training that you had received
15 that it referenced.

10:15:17

16 A. Okay. We were trained that when you're traveling to
17 foreign countries, do not reveal the money that you are
18 carrying because a lot of foreign countries will take your
19 money and just -- you can't do anything about it.

10:15:35 20 THE COURT: And now you've learned the United
21 States will do it, too.

22 THE WITNESS: That, I didn't know about.

23 BY MR. CALLAHAN:

24 Q. Now, was -- was this thought about the Air Force,
25 that was not part of your thought process at the time you

10:15:47

Redirect-Kyle Jones/By Mr. Callahan

1 were dealing with Agent Hernandez?

2 **A.** No. I'm in the United States.

3 MR. CALLAHAN: Thank you. No further
4 questions, Your Honor.

10:15:57 5 MR. RATLIFF: No questions, Your Honor.

6 THE COURT: You may step down. Call your next
7 witness, please.

8 MR. CALLAHAN: I'd like to call Mrs. Berekti
9 Jones.

10:16:14 10 THE COURT: Why don't we take a 15-minute
11 recess.

12 **(Recessed at 10:16 a.m.)**

13 THE COURT: Thank you. Please be seated.

14 Did you have something additional.

10:36:35 15 MR. CALLAHAN: I'd like to call Mrs. Berekti
16 Jones.

17 THE COURT: All right. Would you step up here,
18 please, ma'am.

19 That's where I want to sit.

10:36:47 20 MR. CALLAHAN: Make sure you speak right into
21 that so we can hear you.

22

23

24

25

Direct-Berekti Jones/By Mr. Callahan

1 **BEREKTI JONES,**
2 after having been first cautioned and duly sworn, testified
3 as follows:

4 **DIRECT EXAMINATION**

10:37:00 5 BY MR. CALLAHAN:

6 Q. Mrs. Jones, if you would say your name for the
7 record, please.

8 A. Berekti Jones.

9 THE COURT: Mrs. Jones.

10:37:15 10 THE WITNESS: Berekti Jones.

11 BY MR. CALLAHAN:

12 Q. Mrs. Jones, where were you are born?

13 A. Ethiopia.

14 Q. Is English your first language?

10:37:24 15 A. No.

16 Q. What language is your first language?

17 A. Amharic.

18 Q. Would you spell that for the reporter?

19 A. A-M-H-A-R-I-C.

10:37:33 20 Q. Mrs. Jones, if you don't understand my questions, or
21 those of someone else here, please let us know. Okay?

22 A. Okay.

23 Q. Let's talk quickly about --

24 THE COURT: When were you born?

10:37:43 25 THE WITNESS: 1978.

Direct-Berekti Jones/By Mr. Callahan

1 THE COURT: Just in time for the revolution?

2 THE WITNESS: Yes.

3 BY MR. CALLAHAN:

10:37:58

4 Q. Let's talk about that day on June 2nd, 2011, the day
5 of your trip. Okay?

6 A. Okay.

7 Q. On June 2nd, 2011, were you, Mrs. Jones, carrying
8 more than \$10,000 in currency?

9 A. No.

10:38:06

10 Q. Did you discuss with Mr. Jones how much currency that
11 you were carrying on that day?

12 A. No.

13 Q. To your knowledge, was Mr. Jones aware how much
14 currency you were carrying that day?

10:38:16

15 MR. RATLIFF: Objection, Your Honor.

16 THE WITNESS: No.

17 THE COURT: Sustained. You can refer to him as
18 her husband.

19 BY MR. CALLAHAN:

10:38:25

20 Q. What was your knowledge, if any, about what
21 Mr. Jones, your husband, knew about how much currency you
22 were carrying that day?

23 A. None.

10:38:38

24 Q. Now, did you know how much currency or traveler's
25 checks that your husband was carrying that day?

Direct-Berekti Jones/By Mr. Callahan

1 **A.** No.

2 **Q.** The money, the \$4,000 in cash, that you had on you,
3 where did that money come from? How was it generated?

4 **A.** From my job.

10:38:52 5 **Q.** And what do you do?

6 **A.** I work at We Care Homes Incorporated. I take care of
7 elderly, mentally challenged, handicapped.

8 **Q.** Let's move to the conversation that Mr. Jones had
9 with Agent Hernandez in the jet way.

10:39:13 10 Did you talk to Agent Hernandez in the jet
11 way?

12 **A.** No.

13 **Q.** What were you doing while Agent Hernandez and your
14 husband were talking?

10:39:22 15 **A.** I was holding my baby. I was attending her.

16 **Q.** Did you confirm to Agent Hernandez that you and your
17 husband were carrying \$20,200 in currency?

18 **A.** No, I don't remember that.

10:39:45 19 **Q.** Mrs. Jones, did you have any intent to evade the
20 currency recording requirements?

21 **A.** No, I didn't know there was a requirement.

22 **Q.** Let's move to the inspection table, Mrs. Jones. Did
23 you cooperate at the inspection table and voluntarily
24 provide your wallet to the agents that were conducting the
10:40:01 25 inspection?

Direct-Berekti Jones/By Mr. Callahan

1 **A.** Yes, I did.

2 **Q.** Now, one of the other officers that was up here, his
3 name was Officer Boyd. Do you remember him with the
4 moustache?

10:40:08

5 **A.** Yes.

6 **Q.** Did he have that same moustache back on June 2nd,
7 2011?

8 **A.** Yes.

10:40:19

9 **Q.** Now, Officer Boyd said that he took out \$10,000 out
10 of your husband's jacket. Did Officer Boyd do that?

11 **A.** That's incorrect, no.

12 **Q.** Did Officer Boyd ever speak to you?

13 **A.** No.

10:40:33

14 **Q.** Where was Officer Boyd while you were at the
15 inspection table?

16 **A.** There was a second -- another table next to where we
17 were at and he was attending it.

18 THE COURT: Wait a minute. You're going to
19 have to speak up, please, ma'am.

10:40:42

20 THE WITNESS: Yes. There was another table on
21 the side, and he was searching or counting money, for other
22 traveler's. He was attending other traveler's.

23 BY MR. CALLAHAN:

10:40:58

24 **Q.** Okay. Let's leave the airport and talk about your
25 family today. There's a notebook in front of you, and if

Direct-Berekti Jones/By Mr. Callahan

1 you turn to Plaintiff's Exhibit 3. Do you see that
2 letter?

3 **A.** Yes.

4 **Q.** What is it?

10:41:09

5 **A.** That's my acceptance letter to University of
6 Louisiana.

7 **Q.** And when would you start attending classes there,
8 University of Louisiana Lafayette?

9 **A.** Hopefully this summer or the fall.

10:41:22

10 **Q.** And what do you want to study?

11 **A.** Sociology, so I can be a social worker.

12 **Q.** And how much do you expect tuition cost to be next
13 year?

14 THE COURT: Counsel, everybody has lives.

10:41:35

15 MR. CALLAHAN: Sure.

16 THE COURT: And I don't believe -- I mean, I'd
17 like to get to know the Joneses, especially the littlest
18 one, but I don't need that.

19 MR. CALLAHAN: Sure.

10:41:49

20 THE COURT: We've got things -- very important
21 currency disclosure problems.

22 MR. CALLAHAN: Sure.

23 THE COURT: I'm even assuming you're a nice
24 person.

10:42:00

25 MR. CALLAHAN: With the Judge's comments, I

Cross-Berekti Jones/By Mr. Ratliff

1 don't have any further questions.

2 THE COURT: Mr. Ratliff?

3 **CROSS-EXAMINATION**

4 BY MR. RATLIFF:

10:42:09

5 Q. Hello, Mrs. Jones. My name is Albert Ratliff. If
6 you don't understand my questions, let me know and I'll
7 clarify it for you.

8 At the airport you had about \$4,000 on you;
9 is that correct?

10:42:20

10 A. Yes.

11 Q. And was those monies in your purse?

12 A. In my wallet.

13 Q. In your wallet?

14 A. Yes.

10:42:27

15 Q. Were there -- were they mostly one hundred-dollar
16 bills?

17 A. It might be, I was shocked, so I'm not exactly sure.

18 Q. Okay. And you testified that you did not talk to
19 Officer Hernandez?

10:42:50

20 A. Yes.

21 Q. Did you hear what Officer Hernandez asked your
22 husband?

23 A. I can't say that because I was mostly distracted with
24 my baby was complaining.

10:43:03

25 Q. Okay. And when you got to the inspection table, did

Cross-Berekti Jones/By Mr. Ratliff

1 you hear what Officer Clark Davila asked your husband?

2 **A.** Yes.

3 **Q.** And what did he ask your husband?

4 **A.** He said, "Put everything y'all have on the table."

10:43:22

5 He mentioned traveler's checks, credit cards, debit cards,
6 cash, so we put everything on the table. And with me I
7 couldn't give him the cash that I just pulled out my
8 wallet and hand him my wallet.

9 **Q.** And did your husband have a jacket with him?

10:43:43

10 **A.** It was handing over the one of the carryon bags.

11 **Q.** And it was over the carryon bag?

12 **A.** Yes.

13 **Q.** When you and your husband was at the inspection
14 table?

10:43:55

15 **A.** Yes.

16 **Q.** And after you and your husband placed the -- your
17 currency traveler's checks on the table, that jacket was
18 still on the carryon bag; right?

19 **A.** That's where he took out the money and put it on the
20 table.

10:44:11

21 **Q.** Your husband took the money out?

22 **A.** Yes, he did, traveler's checks from the carryon bags.

23 **Q.** Okay. When you are husband was taking the money out,
24 did your husband ever tell them, "Oops. I'm sorry. I

10:44:30

25 have more than \$20,000. I have about \$30,000 in

Cross-Berekti Jones/By Mr. Ratliff

1 traveler's checks and in cash." Did he ever say anything
2 like that?

3 **A.** No. Because the gentleman that was on the table, he
4 mentioned traveler's checks, credit card, so everything he
5 was mentioning we took out on the table.

10:44:48

6 **Q.** And at that time did --

7 **MR. RATLIFF:** May I approach the witness, Your
8 Honor?

9 **THE COURT:** Yes.

10:45:01

10 **BY MR. RATLIFF:**

11 **Q.** Did you ever see this form during the inspection
12 process?

13 **A.** Yes, I might have, yes.

14 **Q.** And when you looked at that form -- withdraw that
15 question.

10:45:18

16 At anytime, did your husband correct the
17 officers as to what was written on that form?

18 **A.** No. The officer was just counting the money, and
19 there was not much of discussion going on.

10:45:42

20 **Q.** And your husband never told them that, "I have more
21 than \$20,200," to the inspection officers -- did you ever
22 husband ever say that anything like that?

23 **A.** I don't remember that. Everything we had here I put
24 it on the table, so...

10:46:03

25 **MR. RATLIFF:** No further questions, Your Honor.

1 THE COURT: You may step down. Thank you,
2 ma'am.

3 MR. CALLAHAN: Your Honor, plaintiffs rest.

4 THE COURT: Anything else, Mr. Ratliff?

10:46:18

5 MR. RATLIFF: No, Your Honor.

6 THE COURT: All right. Give me about
7 15 minutes to compose my thoughts and I'll be right back.

8 **(Recessed at 10:46 a.m.)**

10:59:39

9 THE COURT: Thank you, please be seated. There
10 is no evidence that the Joneses, including the littlest
11 one, had any intention of violating any law at all. There
12 is more to enforcing currency restrictions than playing
13 "gotcha."

11:00:10

14 The tickets these people bought to Addis,
15 Ababa, would have -- the two of them probably run about
16 \$10,000. Is that right, Mr. Jones?

17 MR. JONES: 18.

11:00:27

18 THE COURT: \$18,000. So you're laundering
19 money, taking \$30,000 and spending 18. That sounds like
20 something the government would do. You got no form from
21 Mrs. Jones. You asked him for a guess, you got a guess and
22 then you played "gotcha."

11:00:51

23 That's not your uniform. That's not the
24 Customs' uniform. That's the uniform of the people of the
25 United States. And I don't care whether the Joneses were

1 Icelandic or Canadian or any other awful group of people.

2 Your job is to stop material, illegal
3 transactions. And, incidentally, the 10,000-dollar limit
4 was set in 1984, because the institution for which you work
11:01:18 5 has inflated the currency \$10,000 today -- I mean, \$10,000
6 in 1984 is \$22,361 now.

7 If you didn't believe that's all Mr. Jones
8 had, you should have asked him to lay it out all on the
9 table and fill out the form correctly. You're not mall
11:01:45 10 cops. Don't act like them. That the United States
11 attorney took this case is equally reprehensible.

12 What you now have is an attempt to have a
13 statistic to your supervisors who sit in an air-conditioned
14 office with a clipboard and never have to frisk any dirty
11:02:13 15 tourist, can report some accomplishment to their superiors.

16 They need to report what they are doing.
17 They're abusing people and not just American citizens,
18 people. They're wasting the resources of the people who
19 are paying you. Have some sense of purpose, perspective,
11:02:38 20 balance and responsibility.

21 Faithfully executing the laws is not running
22 a speed trap at George Bush Airport. There's no evidence,
23 you have no evidence. Are you the supervisor?

24 MR. TRAN: No, sir.

11:03:04 25 THE COURT: Is there a supervisor here? Of

1 course not. We have one, two, three, four, five, six
2 officers. And what do you do, Mr. Tran?

3 MR. TRAN: I --

4 THE COURT: No. This guy.

11:03:22

5 MR. TRAN: I'm sorry.

6 THE COURT: Stand up when you talk to the
7 Court.

8 MR. TRAN: I'm the case agent, sir.

11:03:29

9 THE COURT: You've told me that before. That
10 doesn't mean anything. What it does mean is those guys did
11 the work. That's what it means. What's your job
12 description?

13 MR. TRAN: I input the report in the system and
14 keep track of what happened to the case.

11:03:49

15 THE COURT: And then you come here in front of
16 the case. That's your contribution, and you make more than
17 they do? Why don't you spend your time training them to be
18 thoughtful and energetic and careful. And, incidentally,
19 fellows, I'm not minimizing the fact that there are a lot
20 of crazy people at that airport -- all airports -- but
21 you're not catching crazy people by setting up tourists.

11:04:14

22 To violate the law, you're entitled to
23 forfeiture, it's got to be a material violation, and it's
24 got to be intended. These people were casual. They made a
25 mistake. Lots of people make mistakes, including you-all.

11:04:40

1 How much do you make a year, Mr. Tran.

2 MR. TRAN: I make --

3 THE COURT: Speak up.

4 MR. TRAN: Approximately 65,000 a year.

11:05:01 5 THE COURT: How long -- which part of
6 dysfunctional Homeland Security do you work for?

7 MR. TRAN: I'm on the investigation side.

8 THE COURT: Investigation. So you type data
9 other people work, and you call that investigation?

11:05:19 10 MR. TRAN: No, sir. I say that I keep track of
11 what happened to this case so I can put the report in our
12 system.

13 THE COURT: So you're an accounting clerk?

14 MR. TRAN: For this case, yes.

11:05:37 15 THE COURT: Well, what else do you do?
16 Remember, I'm paying your salary. I want to know what you
17 do the rest of your day?

18 MR. TRAN: Sir, I arrest people when they bring
19 drugs into the airport.

11:05:53 20 THE COURT: When is the last time you did that?

21 MR. TRAN: Last month.

22 THE COURT: How much drugs did they have?

23 MR. TRAN: Over a kilo.

24 THE COURT: Why aren't you doing that instead
11:06:03 25 of harassing American tourists?

1 MR. TRAN: This is, again, the lawsuit too,
2 sir.

3 THE COURT: And where did you get your legal
4 education?

11:06:15 5 MR. TRAN: From Sam Houston State University.

6 THE COURT: And do you have a JD?

7 MR. TRAN: I'm sorry?

8 THE COURT: Do you have a doctorate of
9 jurisprudence degree?

11:06:28 10 MR. TRAN: No, sir.

11 THE COURT: You're not licensed, are you?

12 MR. TRAN: I have a bachelor's degree in
13 criminal justice.

14 THE COURT: And you're telling me the law?

11:06:44 15 MR. TRAN: I'm sorry. If they violate the law,
16 it's our job to enforce the law.

17 THE COURT: They didn't violate the law. In a
18 casual exchange of a almost tricky processing. Why

19 wouldn't you just say, "Let's double-check if you're
11:07:11 20 guessing. Put all your money on the table"? Why didn't
21 you do that? Because you weren't there. But why don't you
22 train people to do that? Well, you were busy arresting
23 drug dealers.

24 MR. TRAN: Can I speak? I was there on that
11:07:30 25 day, but there are requirements that if you fly out

1 overseas, you have to report the money that you have.

2 THE COURT: Mr. Tran, I have two
3 gubernatorial's, one presidential appointment, and two law
4 degrees in addition to my undergraduate degree. I
11:07:52 5 understand it. I've actually flown airplanes overseas.
6 I've taken boats overseas. I've filled out my currency
7 transaction reports. Not everybody has had the benefit of
8 the education.

9 I also know how difficult people can be
11:08:16 10 coming in and going out of the country. So your idea of
11 law enforcement is you catch somebody doing something, you
12 squash them. You don't think through whether they met the
13 intent requirement of the statute.

14 MR. TRAN: Sir, our job is enforce the law, and
11:08:42 15 something else, it's not up to me.

16 THE COURT: So if you were a highway patrol
17 officer, you'd never give anybody a warning? Is that what
18 you're telling me?

19 MR. TRAN: They do.

11:08:57 20 THE COURT: I know they do. You just told me
21 you wouldn't. No matter what, you hammer them. That's not
22 law enforcement. That's a thug in a uniform; on your case,
23 a blue suit.

24 Is "service" anywhere in the motto of
11:09:30 25 Homeland Security? The Italian equivalent of the FBI's

1 motto, that means you can, run but you can't hide. I think
2 that's at least candor. Is "service" in the motto? Do you
3 know what the motto is?

4 MR. TRAN: No, sir.

11:09:48

5 THE COURT: No. Well, that's comforting to
6 know that you don't even know what the slogan is for your
7 own agency, my agency. It's not crush civilians, and
8 that's not what enforcing the law is. There are plenty of
9 awful people out there.

11:10:14

10 You're the kind of guy that would arrest
11 the bank robber for littering because the shell casings hit
12 the pavement after he shot the teller. Service is part of
13 it, judgment is part of it.

11:10:44

14 There's a reason there's a currency
15 report. These people were not the reason, and you didn't
16 find it hidden inside the lining of a suitcase. You found
17 it in his jacket pocket, sneaky devil that he is, in her
18 purse, in her wallet in her purse.

11:11:11

19 Aren't those the facts? Mr. Tran, when I
20 ask you a question it's traditional for you for answer it?

21 MR. TRAN: Yes, sir, that's the fact.

22 THE COURT: The motto of your agency is
23 vigilance, service, integrity. Maybe you ought to memorize
24 that.

11:11:31

25 MR. TRAN: Yes, sir.

1 THE COURT: Maybe you want to look them up to
2 make sure you know what they mean. And those men are
3 responding to the incentives that are indicated by the 19
4 layers of bureaucrat between them and Washington.

11:11:51 5 They get memos and told how to cut corners
6 and do things, instead of how to do it right, solidly.
7 They need the job, they need the work. I can't do it in
8 Latin. Somebody could, but you wouldn't understand it, I
9 trust, I wouldn't either, but who will guard the guardians?

11:12:29 10 Gentlemen on the back -- sit down, Tran.
11 Don't act so that you don't need a guardian. And if some
12 weasly bureaucrat who doesn't do much except travel around
13 in a government car and make trouble for people, tells you
14 to do something that's wrong, just remember: Following
11:12:51 15 orders is not a defense. It may lie. It wasn't a defense
16 at Andersonville, it wasn't a defense at Nuremburg. It's
17 not a defense here.

18 If you get told to do something wrong,
19 don't do it. While Tran is trying to memorize the three
11:13:15 20 words of his agency's motto, you might pick up one of these
21 pocket constitutions and read it.

22 Homeland Security does not run America.
23 It works for America.

24 By when can you have the money back to the
11:13:35 25 Joneses, Mr. Ratliff?

1 MR. RATLIFF: Your Honor, I'll process the
2 request today, ask them to do it as expeditiously as
3 possible. I can't really can't give an estimate, Your
4 Honor.

11:13:52

5 THE COURT: All right. Mr. Callahan?

6 MR. CALLAHAN: Yes, Your Honor.

7 THE COURT: You want the money to be delivered
8 to you?

11:14:03

9 Are they going to do it by wire transfer,
10 or do they actually write checks still?

11 MR. RATLIFF: Your Honor, they can do it both
12 ways. May I suggest as soon as I get an order from you, I
13 will process it. If you wish to have it wire transferred,
14 I can submit the appropriate form to you, you complete it
15 and we can process it as a wire transfer.

11:14:18

16 THE COURT: It might be better if they get a
17 check. You can send a check to him.

18 MR. RATLIFF: Yes, I can.

11:14:29

19 THE COURT: And then he can hand the check to
20 the client.

21 MR. RATLIFF: Yes, Your Honor.

22 THE COURT: I'll do that. Some people don't do
23 checks anymore. What about attorney's fees?

11:14:43

24 MR. RATLIFF: Just have to wait for the motion
25 from the plaintiff.

1 THE COURT: There is one, isn't there?

2 MR. CALLAHAN: Your Honor, I think we said we'd
3 provide one within Rule 54, just sort of the normal
4 procedure once final judgment to submit, submit billing
5 records, Lodestar and that sort of thing. I can write a
6 very short --

7 THE COURT: Can you estimate now? Do you know
8 what Lodestar is?

9 MR. CALLAHAN: Our fee times are reasonable
10 hours.

11 THE COURT: No. I want you to go home, and
12 while he's looking up service and integrity and vigilance,
13 I want you to go home and look up what a Lodestar really
14 is.

15 MR. CALLAHAN: I will.

16 THE COURT: Not what the Court's use it to
17 mean, but what does it really mean.

18 MR. CALLAHAN: I'll do that.

19 THE COURT: Do you have an estimate of what you
20 think your fees are?

21 MR. CALLAHAN: I don't just because so much of
22 the time we've spent has been on Sunday and Monday of this
23 week, so I would have a hard time coming up with an
24 estimate right now. I'm happy to provide it this afternoon
25 if I can get back to my office.

1 THE COURT: What's today? Today is Tuesday.

2 MR. CALLAHAN: Today is Tuesday.

3 THE COURT: Thursday at noon.

4 MR. CALLAHAN: Yes, Your Honor.

11:15:54 5 THE COURT: So would you please check your
6 e-mail, the docket sheet. I guess they e-mail it to you,
7 don't they?

8 MR. RATLIFF: Yes, Your Honor.

9 MR. CALLAHAN: We'll provide --

11:16:06 10 THE COURT: And you stay in your office and
11 he'll call you and say you're crazy, or almost right, or
12 something, so we can see if we can save additional time.

13 MR. CALLAHAN: I'll call Mr. Ratliff.

14 THE COURT: Now, I just want to point out that
11:16:34 15 your daughter is doing what most lawyers would like to do
16 while I talk. She's sleeping through it.

17 All right. Anything else from anybody.

18 MR. RATLIFF: Your Honor, just for the record,
19 I move to substitute this copy for Exhibit 2.

11:16:52 20 THE COURT: I already have it, don't I?

21 MR. RATLIFF: No, Your Honor. This is the
22 actual Exhibit 2. That's the working copy. We can use
23 that for the record, though. Okay. Yes, Your Honor.

24 THE COURT: I don't want the poster. Thank
11:17:08 25 you. It would be a better poster if it said currency and

1 in monetary instruments all one line, but they'll fix that.

2 All right. So the exhibits are all in,
3 and you may withdraw that. Anything else?

4 MR. RATLIFF: Yes, Your Honor.

11:17:31

5 MR. CALLAHAN: No, Your Honor.

6 THE COURT: All right. Thank you, Counsel.

7 **(Recessed at 11:17 a.m.)**

8 **COURT REPORTER'S CERTIFICATE**

9
10 I, Johnny C. Sanchez, certify that the foregoing is a
11 correct transcript from the record of proceedings in the
12 above-entitled matter.

13
14 /s/
Johnny C. Sanchez, CRR, RMR

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